**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT :**

**THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR**

**FRIDAY, THE 13TH JULY 2007 / 22ND ASHADHA 1929**

**OP.No. 8711 of 2002(K)**

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**PETITIONERS:**

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1. **JAYAN S., S/O.SREEKANTAN NAIR,**
   **AGED 30, FIREMAN NO.4386, FIRE STATION, CHAKKA.**

2. **CHANDRAMOHAN K.,**
   **FIREMAN NO.4426, FIRE STATION, TRIVANDRUM.**

3. **B.SHAJI, FIREMAN NO.4344,**
   **FIRE STATION, TRIVANDRUM.**

4. **P.K.KALANATHAN, FIREMAN NO.4392,**
   **FIRE STATION, KOLLAM.**

5. **N.JAYAKUMAR, FIREMAN NO.4338,**
   **FIRE STATION,**

6. **VIJAYAN T., FIREMAN NO.4239,**
   **FIRE STATION, CHAKKA.**

7. **SAJULAL K., FIREMAN NO.4428,**
   **FIRE STATION, TRIVANDRUM.**

8. **A.SIVARAJAN, FIREMAN NO.4302,**
   **FIRE STATION, TRIVANDRUM.**

9. **S.ANIL KUMAR, FIREMAN NO.4402,**
   **FIRE STATION, TRIVANDRUM.**

10. **D.ANIL KUMAR, FIREMAN NO.4230,**
    **FIRE STATION, TRIVANDRUM.**

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11. SURESH KUMAR S., FIREMAN NO.4129,
FIRE STATION, PUNALOOR.

12. G.VENUGOPAL, FIREMAN NO.4112,
FIRE STATION, TRIVANDRUM.

13. SANIL KUMAR S.S., FIREMAN NO.4321
FIRE STATION, ADOOR.

14. SATHEESH KUMAR T., FIREMAN NO.4398, FIRE
STATION, CHAKKA.

15. SHAJIKHAN A., FIREMAN NO.4297,
FIRE STATION, TRIVANDRUM.

16. A.SHAJAHAN, FIREMAN, NO.4239,
FIRE STATION, KOLLAM.

17. M.SHAFI,FIREMAN NO.4415,FIRE STATION,
KOLLAM.

18. B.RAJESH KUMAR, FIREMAN NO.4304,
FIRE STATION,KARUNAGAPALLY.

19. P.SIVASANKAR,FIREMAN NO.4390,FIRE
STATION,RANNI.

20. F.VIJAYAKUMAR, FIREMAN NO.4395,
FIRE STATION,ADOOR.

21. JAYAPRAKASH M.PHILIP,FIREMAN NO.4412,
FIRE STATION,PATHANAMTHITTA.

22. VICTER V.DEV., FIREMAN NO.4345, FIRE
STATION,VARKALA.

23. RAJENDRAN NAIR J., FIREMAN NO.4414,
FIRE STATION,VARKALA.

24. ABDUL RAFEEQ, FIREMAN NO.4406,
FIRE STATION, ATTINGAL.

25. PAVITHRAN P.P.K., FIREMAN NO.4039,
FIRE STATION, VADAKARA.

26. ASOKAN P.V., FIREMAN NO.4081,
FIRE STATION, PAYYANNOOR.

27. BABU MRIDUL E.K.,FIREMAN NO.4329,
FIRE STATION,KALPETTA.

28. SHAJI M.O., FIREMAN NO.4334,
FIRE STATION, KALPETTA.

29. PRABHAKARAN P.K., FIREMAN NO.4348,
FIRE STATION, KALPETTA.

30. RAMACHANDRAN T.P., FIREMAN NO.4261,
FIRE STATION, VELLIMADUKUNNU,KOZHIKODE.

31. KAMALAKSHAN C.M.,FIREMAN NO.4259,
FIRE STATION, VELLIMADUKUNNU,KOZHIKODE.

32. ASOKAN O.K., FIREMAN NO.4273,
FIRE STATION, VELLIMADUKUNNU,KOZHIKODE.

33. SATHYA PRAKASAN .K.,FIREMAN NO.4335,
FIRE STATION,ALATHUR,PALGHAT DISTRICT

34. VELAYUDHAN.K.,FIREMAN NO.4213,
FIRE STATION,ALATHUR,PALAKKAD DISTRICT

35. SUNIL. P.,FIREMAN NO.4207
FIRE STATION,MEENCHANDA,KOZHIKODE.

36. KUNHIMOIDINKUTTY M.C.,FIREMAN NO 4027,
FIRE STATION,BEACH,KOZHIKIODE.

37. K.S.BIJU,FIREMAN NO.4416,FIRE STATION,
KOTTAYAM.

38. K.S.VENU,FIREMAN NO.4326,
FIRE STATION,ALAPPUZHA

39. K.P.SHAJI,FIREMAN NO.4351,
FIRE STATION,ALAPPUZHA.

40. T.SABU,FIREMAN NO.4421,FIRE STATION,
ALAPPUZHA.

41. K.J.MARTIN,FIREMAN NO.4397,
FIRE STATION,ALAPPUZHA

42. K.LALGEEY,FIREMAN NO.4198,
FIRE STATION,ALAPPUZHA

43. C.R.PRADEEP N,FIREMAN NO.4381,
FIRE STATION,ALAPPUZHA.

44. R.JAYASIMHAN,FIREMAN NO.4411,
FIRE STATION,ALAPPUZHA

45. K.G.SANTHOSH KUMAR,FIREMAN NO.4317,
FIRE STATION,CHANGANACHERRY

46. SHABU,FIREMAN NO.4252,
FIRE STATION, CHANGANACHERRY

47. K.JAYACHANDRAN,FIREMAN NO.4281,
FIRE STATION,CHAKKAI,TRIVANDRUM DISTRICT

48. K.SURESH,FIREMAN NO. 4408,
FIRE STATION,VIZHINJAM,TRIVANDRUM DISTRICT

BY ADV. SRI.K.P.DANDAPANI (SR.)

RESPONDENTS:
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1. STATE OF KERALA, REPRESENTED BY
SECRETARY TO GOVERNMENT, HOME DEPARTMENT,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.

2. THE COMMANDANT GENERAL,
FIRE SERVICES HEADQUARTERS, GOKULAM,
PATTOM P.O., THIRUVANANTHAPURAM.

3. THE DIVISIONAL OFFICER, FIRE FORCE
SOUTHERN DIVISION, THIRUVANANTHAPURAM.

4. THE DIVISIONAL OFFICER,
FIRE FORCE CENTRAL DIVISION, ERNAKULAM.

5. THE DIVISIONAL OFFICER, FIRE FORCE
SOUTHERN DIVISION, KOZHIKODE.

6. KERALA PUBLIC SERVICE COMMISSION,
PATTOM, THIRUVANANTHAPURAM, REPRESENTED
BY ITS SECRETARY.

7. SHRI. B. SURESH KUMAR, FIREMAN
NO.4003, FIRE STATION, KOLLAM.

8. ZAKKIR HUSSAIN, FIREMAN NO.4051,
FIRE STATION, NEYYATTINKARA.

9. PRAKASH KUMAR P.V., FIREMAN NO.4004,
FIRE STATION, TALIPARAMBA, KANNUR.

BY ADV. SRI.P.C.SASIDHARAN, SC, KPSC for R6
DR.K.P.SATHEESAN for R7
SRI.K.K.GOPINATHAN NAIR
SRI.M.R.JAYAPRASAD
SRI.N.V.AJAYAKUMAR
SRI.K.K.RAJEEV
SRI.S.VIBHEESHANAN
BY GOVERNMENT PLEADER SRI. BIJOY CHANDRAN

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 13/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**ORDER ON C.M.P.NO.15468/2002, I.A.NO.15544/2003 AND 13788/2006 IN O.P.8711/2002 K**

**DISMISSED**

**13/07/2007** **SD/- K.BALAKRISHNAN NAIR, JUDGE**

**APPENDIX**

**PETITIONER'S EXHIBITS:**

**EXT.P1:** **COPY OF NOTIFICATION DTD. 11/06/1991 PUBLISHED IN THE KERALA GAZETTE.**

**EXT.P2:** **COPY OF ADVICE MEMO DTD. 10/06/1996 ISSUED IN FAVOUR OF THE 1ST PETITIONER.**

**EXT.P3:** **COPY OF SERVICE ORDER NO.150/96 ISSUED IN FAVOUR OF THE 1ST PETITIONER ISSUED BY THE SECOND RESPONDENT.**

**EXT.P4:** **COPY OF SERVICE ORDER NO.138/97 DTD. 12/11/1997 ISSUED BY THE SECOND RESPONDENT.**

**EXT.P5:** **COPY OF SERVICE ORDER NO.1/98 DTD.1/1/1998 ISSUED BY THE SECOND RESPONDENT.**

**EXT.P6:** **COPY OF SERVICE ORDER NO.1/98 DTD. 19/01/98 ISSUED BY THE SECOND RESPONDENT.**

**EXT.P7:** **COPY OF SERVICE ORDER NO.9/98 DTD. 9/2/1998 ISSUED BY THE SECOND RESPONDENT.**

**EXT.P8:** **COPY OF SERVICE ORDER NO.7/98 DTD. 27/01/1998 ISSUED BY THE SECOND RESPONDENT.**

**EXT.P9:** **COPY OF SERVICE ORDER NO.32/98 DTD. 18/03/1998 ISSUED BY THE SECOND RESPONDENT.**

**EXT.P10:** **COPY OF SERVICE ORDER NO.169/2001 DTD. 12/12/2001N ISSUED BY THE SECOND RESPONDENT.**

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**O.P.NO.8711/2002 K**

**EXT.P11: COPY OF COMMUNICATION DTD. 28/02/2002 ISSUED BY THE SECOND RESPONDENT.**

**EXT.P12: COPY OF A LIST OF FIREMAN, WHO LOST THEIR SENIORITY AS PER EXHIBIT P10.**

**EXT.P12(A): COPY OF A TABLE FOR SHOWING THE VARIATION OF SENIORITY OF THE FIRST 100 PERSONS, WHO WERE INCLUDED AS 4001 TO 4100 IN EXHIBIT P8.**

**EXT.P13: COPY OF A LIST OF CANDIDATES, WHO UNDER WENT FOR TRAINING AT A.R.CAMP, TRIPUNITHURA AND WHO LOST THEIR SENIORITY.**

**EXT.P14: COPY OF A LIST OF CANDIDATES, WHO UNDER WENT FOR TRAINING AT ARMED BATTALION, THRISSUR AND WHO LOST THEIR SENIORITY.**

**EXT.P15: COPY OF A LIST OF 5 PERSONS, WHO UNDER WENT TRAINING AT MALABAR SPECIAL POLICE BATTALION, PANDIKKAD AND WHO LOST THEIR SENIORITY.**

**EXT.P16: COPY OF A LIST OF FIREMAN, WHO WENT FOR TRAINING AT ARMED BATTALION POLICE CAMP, NILAMBUR.**

**EXT.P17: COPY OF A LIST OF 50 PERSONS, WHO APPEARED FOR TEST AT THE KANNUR TRAINING CAMP.**

**EXT.P18: COPY OF STANDING ORDER NO.10/84 DTD.1/1/1984.**

**EXT.P19: COPY OF STANDING ORDER NO.10/98 DTD. 22/09/1998.**

**EXT.P20: COPY OF STANDING ORDER NO.8/99 DTD. 23/11/1999.**

**EXT.P21: COPY OF LETTER NO.A2-14562/03 DTD. 27/11/2003 FROM THE COMMANDANT GENERAL, FIRE AND RESCUE SERVICES, THIRUVANANTHAPURAM TO THE DIVISIONAL OFFICER, FIRE AND RESCUE SERVICES, THIRUVANANTHAPURAM/ ERNAKULAM/KOZHIKODE.**

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**EXT.P22:** **COPY OF THE REPRESENTATION SUBMITTED BY THE 1ST PETITIONER BEFORE THE 2ND RESPONDENT.**

**6TH RESPONDENT'S EXHIBIT:**

**EXT.R6(A):** **COPY OF THE LETTER NO.AV(1)13350/02/GW DTD. 21/06/2003 ISSUED BY THE COMMISSION.**

**/TRUE COPY/**

**P.A.TO JUDGE**

*KSS*

**K.BALAKRISHNAN NAIR,J.**

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**W.P ( C) No. 8711 of 2002**

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**Dated this the 13th day of July, 2007**

**J U D G M E N T**

Learned counsel for the petitioners finally, submitted that the clearance of the training as provided under Appendix III r/w Rule 9 of the Kerala Fire Subordinate Services Rules alone is necessary for regular appointment. That will be evident from the rule itself and Note II. If that be so, the stipulation in Note II to that seniority will be determined based on the rank with practical training is unjustified. The provisions of Note I and Note II are in conflict and they cannot stand to them, it is contended.

The principle under Rule 27 (c ) is that among a batch of candidates, most meritorious should be preferred first in the matter of appointment. But the PSC conducts the test to ascertain the general suitability of the candidate for being appointed as Fireman. But the Fire Force gives training to the Fireman so recruited, so that he will be a regular member of the fire fighting force with the necessary capabilities. Only on clearing that training appointment is made. If the rule making

authority thinks that merit in that training should govern the appointment after training, I think it cannot be said to the irrational. Preferring of such trainees in the matter of appointment first and conferring seniority to others are only just and proper. The contention of the petitioner that Note II is in conflict with the other part of the Rule cannot be accepted. I find there is no conflict between them. The first part says necessity for clearing the test. The 2nd part deals with the preference in the matter of appointment. They operate in different fields. Therefore, this contention of the petitioners also cannot be accepted.

**(K.BALAKRISHNAN NAIR,JUDGE)**

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**K.THANKAPPAN,J**

**CRL.A. NO.92 OF 1999**

**ORDER**

**25th May, 2007**